

# SENATE BILL No. 124

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-10; IC 11-12-4-9; IC 31-37-19-7.

**Synopsis:** Incarcerated children. Provides that the department of correction shall restrict a child who has been committed to an adult correctional facility or program to an area of the facility or program where the child at all times has complete sight and sound separation from adults who are charged with, imprisoned for, or incarcerated for offenses. This restriction applies regardless of whether the child is a criminal offender or a delinquent offender. Prohibits the confinement of a child in a county jail unless the child is restricted to an area of the jail where the child at all times has complete sight and sound separation from any adult who is charged with or incarcerated for an offense. Requires the department of correction to enroll in an appropriate educational program each: (1) criminal offender who is less than 18 years of age; and (2) delinquent offender who is committed to or a ward of the department of correction. Makes an exception to the education requirement if the criminal offender received a sentence of death or life imprisonment without parole.

**Effective:** July 1, 2001.

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January 8, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 124

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 11-10-1-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Upon completion  
3 of the evaluation prescribed in section 2 of this chapter and before  
4 assigning him to a facility or program, the department shall determine  
5 the appropriate degree of security (maximum, medium, or minimum)  
6 for each offender as described in IC 35-38-3-6. In making that  
7 determination, the department shall, in addition to other relevant  
8 information, consider:  
9 (1) the results of the evaluation prescribed in section 2 of this  
10 chapter;  
11 (2) the recommendations of the sentencing court; and  
12 (3) the degree and kind of custodial control necessary for the  
13 protection of the public, staff, other confined persons, and the  
14 individual being considered.  
15 (b) After determining the offender's security classification, the  
16 department shall assign him to a facility or program; make an initial  
17 employment, education, training, or other assignment within that



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1 facility or program; and order medical, psychiatric, psychological, or  
 2 other services. In making the assignment, the department shall, in  
 3 addition to other relevant information, consider:

4 (1) the results of the evaluation prescribed in section 2 of this  
 5 chapter;

6 (2) the offender's security classification;

7 (3) the offender's need for special therapy or programs, including  
 8 employment, education, or training available only in specific  
 9 facilities or programs;

10 (4) the likelihood of the offender's reintegration into the  
 11 community in which the facility or program is located;

12 (5) the desirability of keeping the offender in a facility or program  
 13 near the area in which he resided before commitment;

14 (6) the desires of the offender;

15 (7) the current population levels of the facilities or programs  
 16 considered appropriate for the offender; ~~and~~

17 (8) the length of the offender's sentence; ~~and~~

18 **(9) the requirement to enroll an offender who is less than**  
 19 **eighteen (18) years of age in an educational program as**  
 20 **described in section 3.5 of this chapter.**

21 (c) If the department determines that a committed offender is  
 22 mentally or physically incapacitated to such an extent that proper  
 23 custody, care, and control cannot be provided by the department, it  
 24 shall make arrangements for placement outside the department.

25 (d) Before assigning an offender to a facility or program, the  
 26 department shall give him an opportunity to present pertinent  
 27 information; discuss with him all aspects of the evaluation,  
 28 classification, and assignment process; and work with him to determine  
 29 a fair and appropriate assignment.

30 (e) If an offender is sentenced to a term of imprisonment of one (1)  
 31 year or less, the department may make an assignment under this section  
 32 without making the evaluation prescribed in section 2 of this chapter.  
 33 In determining the length of an offender's term, consecutive terms of  
 34 imprisonment shall be added together.

35 (f) This section does not prohibit the temporary assignment of an  
 36 offender pending evaluation and classification.

37 SECTION 2. IC 11-10-1-3.5 IS ADDED TO THE INDIANA CODE  
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 39 1, 2001]: **Sec. 3.5. (a) This section does not apply to an offender who**  
 40 **receives a sentence of death or life imprisonment without parole.**

41 **(b) The department shall enroll each offender who is less than**  
 42 **eighteen (18) years of age in an appropriate educational program,**

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including:

- (1) special or remedial education;
- (2) a program in preparation for:
  - (A) a high school equivalency certificate; or
  - (B) a state of Indiana general educational development (GED) diploma; or
- (3) postsecondary or vocational education.

SECTION 3. IC 11-10-1-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8. Whenever an offender who is less than eighteen (18) years of age is committed to an adult correctional facility or program, the department shall restrict the offender to an area of the facility or program where the offender at all times has complete sight and sound separation from adults who are charged with, imprisoned for, or incarcerated for offenses.**

SECTION 4. IC 11-10-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a) Upon completion of the evaluation prescribed in section 4 of this chapter, the department shall assign the offender to a facility or program; make an initial education, training, employment, or other assignment within that facility or program; and order medical, psychiatric, psychological, or other services it considers appropriate. In making the assignment, the department shall, among other relevant information, consider:**

- (1) the results of the evaluation prescribed in section 4 of this chapter;
- (2) the recommendations of the committing court;
- (3) the offender's need for special therapy or programs, including education, training, or employment available only in specific facilities or programs;
- (4) the degree and type of custodial control necessary for the protection of the public, staff, other committed offenders, and the individual being considered;
- (5) the likelihood of the offender's reintegration into the community in which the facility or program is located;
- (6) the desirability of keeping the offender in a facility or program near the area in which he resided before commitment;
- (7) the desires of the offender and his parents, guardian, or custodian;
- (8) the current population levels of the facilities or programs considered appropriate for the offender; **and**
- (9) the probable length of commitment; **and**
- (10) the requirement to enroll an offender in an educational



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**program as described in section 5.5 of this chapter.**

(b) If the department determines that a committed offender is mentally or physically incapacitated to such an extent that proper custody, care, and control cannot be provided by the department, it shall make arrangements for placement outside the department.

(c) If an offender is found to be pregnant, the department may return her to the committing court for further disposition.

(d) Before assigning an offender to a facility or program, the department shall give him an opportunity to present pertinent information, discuss with him all aspects of the evaluation and assignment process, and work with him to determine a fair and appropriate assignment.

(e) The department shall, by certified mail, return receipt requested, notify the parent, guardian, custodian, or nearest relative of any committed offender of his physical location and any change in that location.

(f) This section does not preclude the temporary assignment of an offender pending evaluation.

SECTION 5. IC 11-10-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. The department shall enroll each offender who is less than eighteen (18) years of age in an appropriate educational program, including:**

**(1) special or remedial education;**

**(2) a program in preparation for:**

**(A) a high school equivalency certificate; or**

**(B) a state of Indiana general educational development (GED) diploma; or**

**(3) postsecondary or vocational education.**

SECTION 6. IC 11-10-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) The commissioner may transfer a committed delinquent offender to an adult facility or program according to the following requirements:

(1) The offender must be seventeen (17) years of age or older at the time of transfer.

(2) The department must determine that:

(A) either the offender is incorrigible to the degree that his presence at a facility or program for delinquent offenders is seriously detrimental to the welfare of other offenders, or the transfer is necessary for the offender's own physical safety or the physical safety of others; and

(B) there is no other action reasonably available to alleviate

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1 the problem.

2 (3) No offender may be transferred to the Indiana state prison or  
3 the Pendleton Correctional Facility.

4 (b) The offender is under the full custody of the adult facility or  
5 program to which he is transferred until he is returned to a facility or  
6 program for delinquent offenders, except that his parole or discharge  
7 from the department shall be determined under IC 11-13-6.

8 **(c) Whenever a delinquent offender is transferred to an adult**  
9 **facility or program under this section, the department shall restrict**  
10 **the delinquent offender to an area of the facility or program where**  
11 **the delinquent offender at all times has complete sight and sound**  
12 **separation from adults who are charged with, imprisoned for, or**  
13 **incarcerated for offenses.**

14 SECTION 7. IC 11-12-4-9 IS ADDED TO THE INDIANA CODE  
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
16 1, 2001]: **Sec. 9. A person who is less than eighteen (18) years of age**  
17 **may not be confined to a county jail unless the person is restricted**  
18 **to an area of the county jail where the person at all times has**  
19 **complete sight and sound separation from any adult who is**  
20 **charged with or incarcerated for an offense.**

21 SECTION 8. IC 31-37-19-7 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) With respect to  
23 a wardship awarded under section 6(b)(2)(A) of this chapter, a child  
24 may not be awarded to the department of correction if the child:

25 (1) except as provided by subsection (b), is:  
26 (A) less than twelve (12) years of age; or  
27 (B) at least eighteen (18) years of age;  
28 at the time of the dispositional decree; or  
29 (2) was determined to be a delinquent child because the child  
30 violated IC 7.1-5-7.

31 (b) A wardship may be awarded to the department of correction if  
32 the child:

33 (1) is ten (10) or eleven (11) years of age; and  
34 (2) is found to have committed an act that would have been  
35 murder if committed by an adult.

36 (c) The department of correction may not confine a delinquent child  
37 ~~except as provided in IC 11-10-2-10;~~ at:

38 (1) an adult correctional facility **or program;** or  
39 (2) a shelter care facility;  
40 that houses persons charged with, imprisoned for, or incarcerated for  
41 crimes unless the child is restricted to an area of the facility **or**  
42 **program** where the child ~~may have not more than haphazard or~~

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- 1 ~~incidental at all times has complete~~ sight ~~or and~~ sound ~~contact with~~  
2 **separation from** persons charged with, imprisoned for, or incarcerated  
3 for crimes.

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